IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.CJ.

CHAMBER SUMMONS NO.1808 OF 2004
IN
SUIT NO. 41 OF 2003

Lal Bherumal Laungani ...Plaintiffs
vs.
Max Cajetan Travasso and Ors....Defendants
AND
Shirley Cardoz and Ors.. ....Applicants

Mr. S. Bondre i/b. Niranjan and Co. for plffs.

M. Bhatt for Intervenor.

P. Thatte for defendants.

CORAM: S.U. KAMDAR, J.

DATE : 4TH MAY, 2005.

P.C. :

1. In the present chamber summons the applicants are seeking to be added as party to the suit on the ground that they are the tenants in respect of the properties of which the plaintiff is seeking specific performance as a developer to

the said property. In view of the fact that the tenants are in possession of the said property no suit for specific performance can be decreed and or vacant possession can be handed over to the plaintiffs in the absence of hearing being granted to the respondent tenants. Learned counsel is opposing the present chamber summons on the ground that the applicant/ tenant should file a suit in the Rent Court. I am unable to accept the aforesaid contention for the simple reason that as of today the tenancy is not determined. The question thereof of filing the suit in Small Cause Court does not arise. In view thereof chamber summons made absolute in terms of prayer clause (a).

2. In so far as prayer clause (b) and (c) are concerned the applicants do not press the same. The same are accordingly rejected.

sd/-

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